

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**Safety-Kleen Systems, Inc.
601 Riley Road
East Chicago, Indiana 46312**

ATTENTION:

**Michael Radcliffe
Senior Environmental Compliance Manager
Radcliffe.michael@cleanharbors.com**

Request to Provide Information Pursuant to the Clean Water Act

The U.S. Environmental Protection Agency is requiring Safety-Kleen Systems, Inc. (“Safety-Kleen” or “you”) to submit certain information about its facility at 601 Riley Road, East Chicago, Indiana. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. You must send this information to us within 30 calendar days after you receive this request. If you are unable to respond in a timely fashion because of impacts related to the COVID-19 pandemic, please submit a written extension request via email to ellens.newton@epa.gov, explaining the specific impacts on your ability to respond.

We are issuing this information request under Section 308(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a). Section 308(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 5.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, among other things, that whenever required to carry out an objective of the CWA, the Administrator of EPA shall require the owner or operator of any point source to: (i) establish and maintain such records, (ii) make

such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as the Administrator may reasonably require.

Safety-Kleen owns and operates a point source at the East Chicago, Indiana facility. We are requesting this information to determine whether this source is complying with the CWA.

Safety-Kleen must send all required information to ellens.newton@epa.gov. If, for some reason, materials cannot be transmitted electronically, submissions can be sent to:

Water Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region 5
Attn: Newton Ellens, ECW-15J
77 West Jackson Boulevard
Chicago, Illinois 60604

Safety-Kleen must submit all required information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a).

As explained more fully in Appendix C, Safety-Kleen may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information submitted to us. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If Safety-Kleen

does not assert a business confidentiality claim when submitting the information, EPA may make this information available to the public without further notice. Safety-Kleen should be aware, however, that pursuant to Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. § 2.302(e), effluent data, standards, and limitations are not eligible for confidential treatment.

This information collection is exempt from the Paperwork Reduction Act under 44 U.S.C. § 3518(c)(1)(B).

We may use any information submitted in response to this request in an administrative, civil, or criminal action. Failure to comply fully with this information request may subject Safety-Kleen to an enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001 and 1341.

You should direct any questions about this information request to Newton Ellens at (312) 353-5562 or ellens.newton@epa.gov.

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Appendix A

When providing the information requested in Appendix B, use the following instructions and definitions.

Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.
2. Precede each answer with the number of the question to which it corresponds and, at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information not known or not available to you as of the date of submission later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

Electronic Submissions

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide a table of contents for the electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. *We recommend the use of electronic file folders organized by question number.*
4. Documents claimed as confidential business information (CBI) must be submitted in separate file folders apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the information claimed as CBI. Please follow the instructions in Appendix C for designating information as CBI.
5. Certify that all electronic submittals including attached files have been scanned for viruses and indicate what program was used.

Definitions

All terms used, but not defined, in this Information Request have their ordinary meaning unless such terms are defined in the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, or 40 C.F.R. Part 122.

1. “Categorical pretreatment standards” means the national pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a publicly-owned treatment works (POTW) by existing or new industrial users (IUs) in specific industrial subcategories and established as separate regulations under the Effluent Guidelines and Standards for Point Source Categories of 40 C.F.R. Chapter I, Subchapter N. 40 C.F.R. § 403.6.
2. “CWA” means the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
3. “Day” or “days” means a calendar day unless expressly stated to be a working day. In computing any period of time under this Information Request, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business on the next working day.
4. “Discharge,” when used without qualification, as defined in Section 502(16) of the CWA, includes a discharge of a pollutant and a discharge of pollutants. 33 U.S.C. § 1362(16).
5. “Discharge of a pollutant” and “discharge of pollutants” as defined in Section 502(12) of the CWA, each means *inter alia*, “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
6. “Indirect discharge,” as defined in 40 C.F.R. § 403.3(i), means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the CWA.
7. “Industrial User” or “IU,” as defined in 40 C.F.R. § 403.3(j), means a source of indirect discharge.

8. “Navigable waters,” as defined in Section 502(7) of the CWA, means “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).
9. “Point source,” as defined in Section 502(14) of the CWA, means “any discernible, confined, and discrete conveyance . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).
10. “Pollutant,” as defined in Section 502(6) of the CWA, means “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).
11. “Publicly Owned Treatment Works” or “POTW” means a treatment works, as defined in Section 212 of the CWA, 33 U.S.C. § 1292(2), that is owned by a State, Tribe, or a municipality (as defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4)). Pursuant to 40 C.F.R. § 403.3(q), the definition of POTWs includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW. The term also means the municipality as defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4), that has jurisdiction over indirect and direct discharges to such a treatment works.
12. “Record” or “records” means any recording of information in tangible or intangible form. It includes, but is not limited to, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer printouts, and computer databases.
13. “Wastewater” shall mean any water/liquid and all material conveyed with that water/liquid that contains process wastewater, discarded material, noncontact cooling and/or heating water, or domestic wastewater.
14. “You” or “Your” for purposes of this Information Request refers to Safety-Kleen and to any managers, officers, agents, employees, contractors, or other entities that perform work or act in any way on behalf of, or at the direction of Safety-Kleen.

Appendix B

Information You Are Required to Submit to EPA

Safety-Kleen Systems, Inc. (“Safety-Kleen” or “you”) must submit the following information with regard to its East Chicago, Indiana, facility pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), within 30 days of receipt of this request:

1. A copy of the current:
 - a. Flow diagram for each currently operating process (i.e., refinery, emulsion breaking, dehydration, and railcar cleaning);
 - b. Flow diagram for Safety-Kleen’s wastewater treatment facility (WTF);
 - c. Stormwater Pollution Prevention Plan;
 - d. Spill Prevention Control and Countermeasures (SPCC) Plan; and
 - e. Storm sewer map.
2. A statement of whether Safety-Kleen still operates a dehydration process and if not, the date it stopped (Safety-Kleen’s current Industrial Wastewater Discharge Permit refers to a dehydration process, but an October 14, 2016, letter from Safety-Kleen to EPA in response to EPA’s September 14, 2016, inspection report states that the dehydration process ended on December 10, 2015).
3. For the railcar cleaning process, the following:
 - a. The startup date;
 - b. A detailed description of the process, including Safety-Kleen’s procedure for handling generated wastewater, including the flow path and destination;
 - c. The number of railcars cleaned in each month starting January 2018 and continuing through December 2020;
 - d. The applicable categorical pretreatment standards;
 - e. One or more recent, date-stamped pictures that capture the entire process; and
 - f. Whether the railcar cleaning process has any drains, and if so, where the drains lead.
4. A list of the 40 C.F.R. Part 437 subpart(s) in addition to Subpart B (Oils Treatment and Recovery) that apply to the waste Safety-Kleen receives and treats (i.e., Subpart A (Metals Treatment and Recovery) and/or Subpart C (Organics Treatment and Recovery)).
5. For each parameter for which Safety-Kleen monitors compliance with local limits or categorical pretreatment standards, provide the following:

- a. The numerical value of all limits that apply (e.g., daily maximum and monthly average); and
 - b. The location where Safety-Kleen monitors the parameter for compliance purposes.
6. For commingled deliveries (i.e., deliveries comprising waste from multiple generators), the procedures that the branch collection sites (both Safety-Kleen's and third-party branches) have for the loads they receive before shipping them to the East Chicago facility.
7. Safety-Kleen's incoming load screening procedure, including the acceptable level for each parameter sampled before acceptance.
8. From January 1, 2018, to December 31, 2020, records of loads Safety-Kleen rejected or loads, for which Safety-Kleen performed further testing before deciding whether the load was acceptable for recycling.
9. A description of the flow path and destination of non-oil material (i.e., material containing less than 100 milligrams per liter (mg/L) of oil and grease) received.
10. A description of the waste (either generated on-site or received) that Safety-Kleen ships off-site.
11. A description of all sources of liquid that drain to the facility's lift station, which pumps liquid to the WTF.
12. Safety-Kleen's procedure for handling stormwater collected in process areas, including the flow path and destination of both contaminated (i.e., containing signs of oil) and uncontaminated stormwater.
13. Safety-Kleen's procedure for handling stormwater collected in tank farms, including the flow path and destination of both contaminated and uncontaminated stormwater.
14. An explanation of whether Safety-Kleen ever directs uncontaminated stormwater to the WTF, and if so, a description of the circumstances that warrant these actions.
15. The location within the WTF where contaminated stormwater (and uncontaminated as described in the preceding paragraph, if applicable) is directed, indicated on the WTF flow diagram.
16. A current map showing the flow path of surface water and the location of each stormwater outfall at Safety-Kleen's East Chicago facility.
17. Safety-Kleen's procedure for operating the manual valves by the stormwater outfalls. From January 1, 2018, through December 31, 2020, provide records for each time Safety-Kleen closed these valves to prevent a potential oil release.

18. From January 1, 2018, through December 31, 2020, records of evaluations of water collected in secondary containment areas for the presence of oil.
19. From January 1, 2018, through December 31, 2020, records of each time Safety-Kleen pumped water collected in secondary containment areas, the place to which the water was pumped, and the volume pumped, with calculations.
20. Safety-Kleen's procedure for capturing and transferring oil released in containment areas into used-oil tanks, as mentioned in Safety Kleen's October 8, 2012, SPCC Plan. Indicate on a map or flow diagram the location of these tanks and provide, if available, a copy of the current SOP(s) for their use.
21. For the used-oil tanks described in the preceding paragraph, from January 1, 2018, through December 31, 2020, provide records of transfers of oil from containment areas to the used-oil tanks.
22. Safety-Kleen's procedures for addressing spills that occur during transfer, loading/unloading, and outside of containment areas, including how Safety-Kleen prevents discharge to the storm sewer system.
23. For Tank T-601 in the WTF:
 - a. The rate at which Safety-Kleen sends wastewater and stormwater to T-601 and whether the rate is controlled;
 - b. Safety-Kleen's procedure for discharging wastewater and stormwater from T-601 (e.g., continuously or after a set volume);
 - c. An explanation of how Safety-Kleen uses T-601 to control flow through the WTF, including during heavy precipitation events; and
 - d. From January 1, 2018, through December 31, 2020, records of each time Safety-Kleen bypassed T-601 and sent wastewater or stormwater directly to biological treatment, including the date of and reason for each bypass.
24. Safety-Kleen's procedure for inspecting equipment, including tanks and transfer lines, secondary containment, and loading/unloading areas for deterioration or other issues, and the frequency of these inspections. Provide, if available, a copy of the current SOP(s) related to these inspections.
25. Date-stamped pictures taken no less recently than December 1, 2020 of the following, with a clear written description of what is depicted in each picture:
 - a. The entire perimeter of every process area;
 - b. The entire perimeter of every tank farm;
 - c. The loading/unloading areas;
 - d. The route that oil-containing tank trucks take through the facility; and

- e. The entire length of the concrete curb on the southern edge of the facility along the Indiana Harbor Canal.

In lieu of pictures, EPA will accept videos of the above, with a vocal narrative of what is being depicted in each video.

- 26. A statement of what Safety-Kleen believes to be the source of cyanide present in its WTF discharge to the East Chicago Sanitary District's publicly owned treatment works (e.g., incoming loads or on-site generation).
- 27. The testing method Safety-Kleen currently uses for cyanide monitoring.
- 28. A detailed explanation of all efforts Safety Kleen has taken to further raise its cyanide effluent limit since approval of the site-specific free cyanide modification for the West Branch of the Calumet River (which raised the limit from 3 to 19 parts per billion) and the current status of those efforts.
- 29. A detailed description of the current treatment processes, equipment, and methods Safety-Kleen uses to try to meet the cyanide effluent limit.
- 30. For cyanide treatment using oxidation via sodium hypochlorite, explain the following:
 - a. Whether Safety-Kleen ever increased residence time to achieve equilibrium between oxidation and breakpoint chlorination to improve cyanide (and residual chlorine) treatment. If yes, state when this occurred and the result. If no, explain why not;
 - b. Whether Safety-Kleen ever installed mixing equipment in the tank in which the sodium hypochlorite reaction occurs to improve cyanide and residual chlorine treatment. If yes, state when this occurred and the result. If no, explain why not;
 - c. Whether Safety-Kleen believes dosage volume is optimized and if so, Safety-Kleen's reasoning; and
 - d. Whether Safety-Kleen uses a two-stage oxidation process in which cyanide is oxidized to cyanate then oxidized to nitrogen and carbon dioxide, as recommended by McMahon in a December 2010 report. If not, explain whether Safety-Kleen considered implementing the above-described process and the basis for Safety-Kleen's determination not to use such a process.
- 31. Whether Safety-Kleen uses hydrogen peroxide, in tandem with oxidation via sodium hypochlorite or ultraviolet radiation, to create higher oxidizing power, as recommended by McMahon in its December 2010 report. If not, explain whether Safety-Kleen considered implementing the above-described process and the basis for Safety-Kleen's determination not to use such a process.
- 32. The effect that the following projects had on cyanide treatment, with supporting data and Safety-Kleen's interpretation of what the data shows in relation to these projects:

- a. Cleaning the biological treatment tanks in the WTF to remove solid buildup;
 - b. Repairing the aeration grid for the biological treatment tanks in 2017;
 - c. River Bend Labs' Metsource AIR test. If Safety-Kleen conducted a trial, as recommended by River Bend Labs based on this initial testing, provide the results. If not, explain why Safety-Kleen did not conduct a trial;
 - d. Installing the pilot chemical treatment system in 2017;
 - e. Treating wastewater with hydrogen peroxide, CNX-1, and CNX-10 in Tanks T-624 and T-625;
 - f. Routing the condensate stream from steam-driven vacuum injectors to a distillation tower in 2016; and
 - g. Routing the condensate stream from steam-driven vacuum injectors to a series of tanks involving a batch process including heat treatment, pH adjustment, and chemical treatment in 2018.
33. For the routing of the condensate stream from steam-driven vacuum injectors to the distillation tower, a description of the process fouling issues Safety-Kleen stated occurred in its December 2, 2019, response to EPA's September 30, 2019, request for information.
34. For the routing of the condensate stream from steam-driven vacuum injectors to a series of tanks involving a batch process including heat treatment, pH adjustment, and chemical treatment, a description of the additional controls Safety-Kleen stated it would need to make this a viable treatment option in its December 2, 2019, letter.
35. The cause or suspected cause for each effluent exceedance of the daily maximum local limits for mercury and phenols noted in the table below and the efforts Safety-Kleen took and/or plans to take to reduce, eliminate, and prevent recurrence of each exceedance:

Pollutant	Monitoring Date	Monitoring Result (mg/L)	Permit Limit (mg/L)
Mercury	9/28/20	0.00248	0.0002
Mercury	8/12/20	0.00031	0.0002
Mercury	5/6/20	0.0008	0.0002
Mercury	4/28/20	0.00075	0.0002
Mercury	4/13/20	0.00045	0.0002
Mercury	5/23/19	0.00046	0.0002
Mercury	4/29/19	0.00034	0.0002
Mercury	3/26/19	0.0004	0.0002
Phenols	9/28/20	16.8	0.96
Phenols	1/14/20	2.74	0.96
Phenols	4/29/19	4.09	0.96

Appendix C

Confidential Business and Personal Privacy Information

Assertion Requirements

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 308(a) of the CWA and 40 C.F.R. Part 2. Please clearly identify portions of otherwise non-confidential documents that you are claiming as confidential. EPA will construe the failure to furnish a confidentiality claim with your response to the information request may result in the information being made available to the public without further notice to you.

Determining Whether the Information Is Entitled to Confidential Treatment

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential by page, paragraph and sentence. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who

is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
6. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
7. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination.

EPA may also find that the information you claim as confidential is clearly not entitled to confidential treatment and will provide you a determination letter stating the same. Examples of information clearly not entitled to confidential treatment include effluent data, as defined in 40 C.F.R. § 2.302(A)(2), and information in National Pollution Discharge Elimination System permit applications are not entitled to confidential treatment. See 40 C.F.R. § 122.7.

Personal Privacy Information

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as "Personal Privacy Information." Disclosure of such information to the general public may constitute an invasion of privacy.